

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM)
37.86.1105 pertaining to Medicaid)
outpatient drugs, pharmacy)
reimbursement for Medicare Part D)
dual eligibles)

NOTICE OF AMENDMENT

TO: All Interested Persons

1. On November 23, 2005, the Department of Public Health and Human Services published MAR Notice No. 37-359 pertaining to the public hearing on the proposed amendment of the above-stated rule relating to Medicaid Outpatient Drugs, pharmacy reimbursement for Medicare Part D dual eligibles, at page 2319 of the 2005 Montana Administrative Register, issue number 22.

2. The Department has amended the following rule as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

37.86.1105 OUTPATIENT DRUGS, REIMBURSEMENT (1) through (5) remain as proposed.

(6) Full-benefit ~~D~~dual eligible recipients qualify for pharmaceutical drug coverage under ~~m~~Medicare Part D prescription drug plans (PDPs) on January 1, 2006 under 42 USC 1302, 1395w-101 through 1395w-152 (2005), the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA). For purposes of the MMA and this rule, the term full-benefit dual eligible has the same meaning as stated in 42 CFR 423.772.

(7) The MMA allows PDPs to exclude from coverage the drug classes listed in 42 USC 1396r-8(d)(2) (2005). Montana ~~m~~Medicaid may also exclude these drugs and has chosen to do so except for limited the prescription and nonprescription drugs, ~~barbiturates, and benzodiazepines~~ identified on the department's drug formulary. On January 1, 2006, Montana Medicaid's reimbursement for outpatient drugs provided to full-benefit dually eligible recipients, for ~~which~~ whom third party payment is not available, will be limited to ~~barbiturates, benzodiazepines, and nonprescription~~ the excluded drugs identified on the department's drug formulary.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

3. The Department proposed some edits for clarity and to assist rule users. The edits do not change the intent of the rule as originally proposed.

The phrase "full-benefit" will be added before "dual eligibles" and the citation to the definition of "full-benefit dual eligibles" in the code of federal regulation will be provided. For purposes of implementing the portions of the MMA that coordinate

Medicare Part D and the Medicaid program, the Center for Medicare and Medicaid (CMS) uses the term “full benefit dual eligibles” to refer to the Medicaid recipients who qualify for automatic enrollment in a Medicare prescription drug plan on January 1, 2006. The Department will use the same term in this rule for consistency.

The reference to the specific drugs that will continue to be provided to full benefit dual eligibles is being removed. The drugs will be identified on the department’s formulary without specific reference in rule. This is consistent with the Department’s current practice of referencing the formulary in rules without naming the drugs on the formulary.

4. No comments or testimony were received.
5. These rule changes will be applied retroactively to January 1, 2006.

/s/ Russ Cater
Rule Reviewer

/s/ John Chappuis for
Director, Public Health and
Human Services

Certified to the Secretary of State January 13, 2006.